

After the Petition is Filed

Notice Will Be Served

Notice of your petition will then be served on all interested parties in a manner prescribed by the law. The sheriff or other duly authorized officer will serve a copy of the petition on the proposed ward. Others will be sent copies in the mail. This is when those who have not acknowledged service in the petition will get notice of the petition.

Court Appointed Examiner

After your petition is filed, then the court will review it for sufficiency; if it is sufficient, then the court will appoint an examiner, usually a healthcare professional who will meet personally with the proposed ward. The examiner will also speak with others involved with the care of the proposed ward and will review medical history. The examiner will then report their findings to the court, they will provide certain details about the alleged incapacity and indicate their findings. This is part of the evidence the court uses in making its determination regarding incapacity of the proposed ward. The petitioner is generally provided a copy of this at the hearing, but it should be available to the petitioner anytime after it has been filed with the court. You can call the clerk and ask if the medical examiner's report has been filed. Then go get a copy or ask if a copy can be mailed to you. If the examiner's report says something other than, "needs a guardian" you may need to seek legal counsel. Just because the report says the proposed ward needs a guardian, does not mean the court will appoint one, nor does it mean that you will be appointed.

Attorney Appointed for Proposed Ward

After the medical examiner's report is available, unless it is an emergency petition (that will be discussed elsewhere) the court will appoint an attorney to represent the proposed ward at the hearing, unless the proposed ward has hired their own attorney (if they have, then you should retain an attorney to represent you). This attorney will get a copy of all the paperwork that has been filed in the case. The attorney will contact the proposed ward. Usually this attorney will meet with the proposed ward unless there are exceptional circumstances which would prevent that and/or make such a visit impossible. This attorney will usually contact everyone listed on the petition and speak with them about the proposed ward and the proposed guardian. They will also talk with social workers, nurses, case workers, and others involved in the proposed ward's life. It is important to remember that the attorney appointed by the court represents the proposed ward, and not you, the petitioner. If the proposed ward is able to communicate their opinion on whether they need a guardian or who their guardian should be, the attorney will present that at the hearing. If you know the proposed ward is going to object to the appointment of a guardian, you should consider hiring an attorney to represent you.

After the Petition is Filed (continued)

Guardian Ad Litem May Be Appointed

The attorney may investigate and determine that a *Guardian ad Litem* should be appointed for the proposed ward. This can happen when the proposed ward objects to the appointment of a guardian and the attorney appointed to represent the proposed ward believes it may be in the ward's best interest to have a guardianship. Often this is not brought before the court until the hearing. The judges are usually very good at identifying situations where the proposed ward is objecting to the guardianship but they really do need a guardian. If the court feels that they already have enough evidence of the need for a guardian, the court will rule on that without having to appoint a *Guardian ad Litem*. The court may appoint a *Guardian ad Litem (GaL)* which may be an attorney or other professional. The *GaL* is responsible for investigating and reporting to the court what is in the best interest of the proposed ward. Under the new guardianship code this will be more prevalent, as the new law requires a *GaL* in more circumstances. If you are asking for certain optional powers, then the court must appoint a *GaL*.

If a *GaL* is appointed, you must remember they do not represent you. You should not ask them for advice. Their goal is to determine what is in the proposed ward's best interest. Often the *GaL* must focus their attention on you and what you are trying to do. You must demonstrate to the *GaL* that what you want to do is in the proposed ward's best interest, not your best interest.

The *GaL* will usually prepare a written report for the court, but may also appear at the hearing to make their recommendations. The court does not have to follow the recommendations of the *GaL*, but they usually will give great deference to those recommendations. If you are seeking certain powers, the court must appoint a *GaL*.